(*Part I—Preliminary*)

MYSORE ACT No. XLV OF 1943.

THE MYSORE CHILDREN ACT, 1943.

(*Received the assent of His Highness the Maharaja on the 28th day of July* 1943.)

WHEREAS it is expedient to make provision for the custody and protection of children and for the custody, trial and punishment of juvenile offenders ; Preamble.

It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Mysore Children Act, 1943. Short title, extent and commencement.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) This section shall come into force at once. The Government may, by notification in the official Gazette from time to time, apply the whole or any portion of this Act to children or juvenile offenders or any class thereof in any local area in [1][the State of Mysore except Bellary District] from such date as may be specified in the notification, and may in like manner cancel or modify any such notification.

(4) The Mysore Juveniles Act, XIV of 1939, is hereby repealed. Repeal.

2. In this Act, unless there is anything repugnant in the subject or context— Interpretation clause.

(*a*) " Child " means a person under the age of sixteen years and, when used with reference to a child sent to a certified school, applies to that child during the whole period of his detention, notwithstanding that the child may have attained the age of sixteen years ;

1. See the Mysore Adaptation of Laws Order, 1959.

(*b*) " Juvenile offender " means any child who has been found to have committed an offence punishable with transportation or imprisonment ;

(*c*) " certified school " means a school established under sub-section (1) or certified under sub-section (2) of Section 45 of this Act, or any other educational institution certified in this behalf by the Government ;

(*d*) " guardian " in relation to a juvenile offender or child includes any person who, in the opinion of the court having cognizance of any proceedings in relation to the ıvenile offender or child, or in which the juvenile offender r child is concerned has, for the time being, the actual harge of or control over the juvenile offender or child ;

(*e*) " fit person " in relation to the care of any child ıcludes any society or body corporate established for he reception or protection of poor children or the preven- ion of cruelty to children which undertakes to bring up r to give facilities for bringing up any child entrusted to ts care in conformity with the religion of its birth ;

(*f*) " place of safety " includes any orphanage, hospital, nursing home or any other suitable place or institution the occupier or manager of which is willing temporarily to receive a child ; or, where such orphanage, hospital, nursing home or other suitable place or institution is not available, in case of a male child only a police station ;

(*g*) " brothel " means any house, room or place or any part thereof, occupied or let or intended to be occupied or let as a single tenement, which is habitually used by more than one person for the purposes of prostitution ;

(*h*) " prescribed " means prescribed by rules under this Act ;

(*i*) " Juvenile court " means a separate court established under sub-section (1) of Section 55 of this Act, and includes a court hearing charges against children under sub-section (2) of that section ;

(*j*) " caning " means the punishment authorised under the Whipping Act, 1903, and inflicted with a cane less than half an inch in diameter as directed by the Government under Section 392 of the Code of Criminal Procedure, 1904 ;

(*k*) " Probation Officer " means an officer appointed under Section 29.

(Part II—Custody of Destitutes)

Powers of courts.

3. The powers conferred on courts by this Act shall be exercised only by (*a*) the High Court, (*b*) a Court of Session, (*c*) a District Magistrate, (*d*) a Sub-Divisional Magistrate, (*e*) any Magistrate of the First Class, (*f*) any Magistrate of the Second Class specially empowered by the Government to exercise all or any of such powers, (*g*) any Juvenile Court constituted under Section 55, and may be exercised by such courts whether the case comes before them originally or on appeal or for revision.

Procedure when Magistrate is not empowered to pass an order under this Act.

4. (1) When any Magistrate not empowered to pass an order under this Act is of opinion that a child brought before him is a proper person to be sent to a certified school or to be dealt with in any other manner in which the case may be dealt with under this Act, he shall record such opinion and submit his proceedings and forward the child to the District Magistrate to whom he is subordinate or the Magistrate presiding over the nearest Juvenile Court having jurisdiction in the case.

(2) The District Magistrate or the Magistrate presiding over the Juvenile Court to whom the proceedings are so submitted may make such further inquiry, if any, as he may think fit, and may pass such order dealing with the case as he might have passed if the child had originally been brought before or tried by him.

PART II.

Measures for the Custody and Protection of Children who are Destitutes, etc.

Children found homeless, destitute, etc.

5. (1) Any police officer or other person authorised in this behalf in accordance with rules made by the Government may bring before a court any person who, in his opinion, is a child and who—

(*a*) has no home, settled place of abode or visible means of subsistence, or has no parent or guardian who exercises regular and proper guardianship, or

(*b*) is found destitute and his parents or surviving parent or other guardian, or, in the case of an illegitimate child, his mother or other guardian,

are or is, as the case may be, undergoing transportation or imprisonment, or

(*c*) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of such person, or

(*d*) frequents the company of any reputed thief or prostitute, or

(*e*) is lodging or residing in or frequenting a house used by a prostitute for the purposes of prostitution, or

(*f*) is otherwise likely to fall into bad association or to be exposed to moral danger or to enter upon a life of crime :

Provided that when any such child has a parent or guardian who has the actual charge or control over the child, the police officer or other person as aforesaid shall, in the first instance, make a report to the nearest court or magistrate having jurisdiction under this Act. Such court or magistrate may call upon such parent or guardian to show cause why the said child should not, during the pendency of the proceedings, be removed from his care, and may, on suitable sureties being offered for the safety of such child and for his being brought before the court, permit the child to remain in the actual charge or control of his parents or guardian, or may order his removal till the court passes orders under this Act.

(2) The court before which a child is brought as coming within one of these descriptions shall examine the information and record the substance of such examination, and shall, if it thinks that there are sufficient grounds for inquiring further, fix a date for such inquiry.

(3) On the date fixed for the production of the child or for the inquiry, or on any subsequent date to which the proceedings may be adjourned, the court shall hear and record all evidence which may be adduced and consider any cause which may be shown why an order sending the child to a certified school should not be passed, and make any further inquiry it thinks fit.

(4) If the court is satisfied on the inquiry that such person is a child and is as described within the provisions of sub-section (1) and that it is expedient so to deal with him, the court may order him to be sent to a certified

school or may order him in the prescribed manner to be committed to the care of a relative or other fit person named by the court, such relative or other person being willing to undertake such care until such child attains the age of eighteen years or for any shorter period.

(5) The court which makes an order committing a child to the care of a relative or other fit person may, when making such order, require such relative or other person to execute a bond, with or without sureties, as the court may require, to be responsible for the good behaviour of the child and for the observance of such other conditions as the court may impose for securing that the child may lead an honest and industrious life.

(6) The court which makes an order committing a child to the care of a relative or other fit person under this section may, in addition, order that he be placed under the supervision of a probation officer or other person named by the court:

Provided that, when the magistrate thinks fit he may allow such child to remain in the custody of a parent or guardian with a direction that he be placed under the supervision of a probation officer or other person named by the court on such parent or guardian giving an undertaking with or without sureties in a prescribed form to the court, and the court may from time to time adjourn the inquiry and compel the production of the child in court to satisfy it that the said undertaking is being carried out.

Uncontrollable children.

6. Where the parent or guardian of a child proves to a court that he is unable to control the child and that he desires the child to be sent to a certified school, the court, if satisfied on enquiry that it is expedient so to deal with the child and that the parent or guardian understands the results which will follow, may order him to be sent to any such school.

PART III.

OFFENCES AGAINST CHILDREN AND THEIR PREVENTION.

Punishment for cruelty to children.

7. (1) Whoever having the actual charge of or control over a child abandons, exposes or wilfully neglects or ill-treats such child in a manner likely to cause such child

unnecessary suffering or injury to his health, shall be punishable with imprisonment of either description for a term which may extend to six months or with fine which may extend to two hundred rupees or with both.

(2) For the purposes of this section, injury to health includes injury to, or loss of, sight or hearing and injury to limb or organ of the body and any mental derangement, and a parent or other person legally liable to maintain a child shall be deemed to have neglected him in a manner likely to cause injury to his health if he wilfully fails to provide adequate food, clothing, medical aid or lodging for the child.

(3) A person may be convicted of an offence under this section notwithstanding the actual suffering or injury to health obviated by the action of another person.

(4) Nothing in this section shall be construed to take away or affect the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to such child.

Causing or allowing child to beg.

8. (1) Whoever for his own profit causes any child or, having the actual charge of or control over a child, allows that child to be in any street, premises or place for the purpose of begging or receiving alms, or of inducing the giving of alms, shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to one hundred rupees or with both.

(2) The Government may by notification in the official Gazette, exempt from liability to punishment under this section any class of persons in any district or place where this Act may be in operation.

Penalty for being drunk while in charge of a child.

9. If any person is found drunk in any highway or other public place, whether a building or not, or on any licensed premises, while having the charge of a child apparently under the age of seven years, and if such person is incapable, by reason of his drunkenness, of taking due care of the child, he may be arrested and shall, if the child is under that age, be punishable with fine which may extend to fifty rupees.

Explanation.—For the purposes of this section, a child shall be deemed to be under the age of seven if it appears to the court to be under that age unless the contrary is proved. Presumption as to age of child.

10. Whoever in any highway or other public place, whether a building or not, or on any licensed premises gives, or causes to be given, to any child any intoxicating liquor except upon the order of a duly qualified medical practitioner, or in case of sickness or other urgent cause, shall be punishable with fine which may extend to fifty rupees. Penalty for giving intoxicating liquor to a child.

11. It shall be the duty of a police officer to seize any bidis, cigarettes, tobacco or smoking mixture in the possession of a child whom he finds smoking in any street or public place, and any bidis, cigarettes, tobacco or smoking mixture so seized shall be forfeited to Government, and every such police officer shall be authorised to search any boy so found smoking but not a girl. Seizure by police officer of any bidis, cigarettes tobacco or smoking mixture in possession of a child.

12. Whoever, by words either spoken or written or by signs, or otherwise, incites or attempts to incite a child to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or so incites or attempts to incite a child to borrow money or to enter into any transaction involving the borrowing of money, shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both. Penalty for inciting a child to bet or borrow.

13. Whoever takes an article in pawn from a child, whether offered by that child on his own behalf or on behalf of any other person, shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both. Penalty for taking pawn from a child.

14. Whoever, having the actual charge of, or control over, a child between the ages of four and sixteen, allows that child to reside in or frequent a brothel, shall be punishable with imprisonment of either description for a Allowing child to be in brothel.

term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Causing or encouraging seduction, etc., of young girl.

15. (1) Whoever, having the actual charge of or control over, a girl under the age of sixteen years, causes or encourages seduction or prostitution of that girl or causes or encourages anyone other than her husband to have sexual intercourse with her, shall be punishable with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

(2) For the purposes of this section, a person shall be deemed to have caused or encouraged the seduction or prostitution of, or the unlawful sexual intercourse, with a girl who has been seduced or become a prostitute or with whom such sexual intercourse has been had, if he has knowingly allowed the girl to consort with, or to enter or continue in the employment of any prostitute or person of known immoral character.

Young girls exposed to risk of seduction, etc., or cruelly treated.

16. If it appears to a court on the complaint of any person that a girl under the age of sixteen is being treated with cruelty by her parent or guardian or that such girl with the knowledge of her parent or guardian is exposed to the risk of seduction or prostitution, or living a life of prostitution, the court may direct the parent or guardian to enter into a recognizance to exercise due care and supervision in respect of such girl.

Detention of child in a place of safety.

17. (1) Any police officer not below the rank of Sub-Inspector, or a police officer or a person authorised in this behalf in accordance with rules made by the Government, may take to a place of safety any child in respect of whom an offence punishable under this Act or under Chapter XVI of the Indian Penal Code, 1860, as in force in Mysore, has been, or there is reason to believe has been committed.

(2) A child so taken to a place of safety and also any child who seeks refuge in a place of safety may there be detained until he can be brought before the court, but such detention shall not, in the absence of a special order of the court, exceed a period of twenty-four hours exclusive of the time necessary for the journey from the place of detention to the court, and the court may make such order as is mentioned in the next following sub-section,

or may cause the child to be dealt with as circumstances may admit and require until the charge made against any person in respect of any offence as aforesaid with regard to the child has been determined by the conviction, discharge or acquittal of such person.

(3) Where it appears to the Court that an offence as aforesaid has been committed in respect of any child who is brought before the Court and that it is expedient in the interests of the child that an order should be made under this sub-section, the Court may make such order as circumstances may admit and require for the care and detention of the child until a reasonable time has elapsed for a charge to be made against some person for having committed the offence and, if a charge is made against any person within that time, until the charge had been determined by the conviction, discharge or acquittal of that person and, in case of conviction, for such further time not exceeding one month as the Court which convicted may direct, and any such order may be carried out notwithstanding that any person claims the custody of the child.

Disposal of child by order of Court.

18. (1) Where any person having the actual charge of or control over a child has been—

(*a*) convicted of committing in respect of such child an offence punishable under this Act or under Chapter XVI of the Indian Penal Code, as in force in Mysore; or

(*b*) committed for trial for and such offence; or

(*c*) bound over to keep the peace towards such child by any Court,

that Court may, either at the time when the person is so convicted, committed for trial or bound over or at any other time order that the child be taken out of the charge and control of the person so convicted, committed for trial or bound over and be committed to the care of a relative of the child or other fit person named by the Court (such relative or other person being willing to undertake such care) until he attains the age of eighteen years or for any shorter period, and that Court or any Court of like jurisdiction may, of its own motion, or on the application of any person, from time to time by order renew, vary and revoke any such order.

(2) The Court which makes an order committing a child to the care of a relative or other fit person under this section may require such relative or other person to execute a bond, with or without sureties, to be responsible for the good behaviour of the child and for the observance of such other conditions as the Court may impose for securing that the child may lead an honest and industrious life, and, in addition, order that the child be placed under the supervision of a probation officer or other person named by the Court.

(3) If the child has a parent or guardian, no order shall be made under this section unless—

(i) the parent or legal guardian has been convicted of or committed for trial for the offence or has been bound over to keep the peace towards the child or cannot be found ; or

(ii) the Court has reason to believe that the parent or legal guardian has either been party or privy to the offence or has by any act or omission facilitated the offence, or is otherwise unfit to have the care of the child :

Provided that, if the Court thinks fit, it may, on such parent or guardian giving an undertaking with or without sureties in a prescribed form to the Court, allow such child to remain in the custody of such parent or legal guardian subject to the supervision of a probation officer or other person named by the Court.

(4) Every order under this section shall be in writing, and any such order may be made by the Court in the absence of the child and the consent of any person to undertake the care of the child in pursuance of any such order shall be taken in such manner as the Court may think sufficient to bind him.

(5) Where an order is made under this section and the conviction or order binding the person to keep the peace is set aside or the person is acquitted, the order shall forthwith be void except with regard to anything that may have been lawfully done under it.

(6) The Court may, instead of ordering the child to be committed to the care of a relative or other fit person, order that the child shall be sent to a certified school.

(Part III—Offences against Children)

Warrant to search for child ill-treated.

19. (1) If it appears to a magistrate duly empowered under this Act, from information on oath or solemn affirmation laid by any person who in the opinion of the magistrate, is acting in the interests of a child, that there is reasonable cause to suspect that—

(*a*) the child has been or is being wilfully ill-treated or neglected in any place within its jurisdiction in a manner likely to cause the child unnecessary suffering or to be injurious to his health, or

(*b*) that an offence punishable under this Act or under Chapter XVI of the Indian Penal Code, as in force in Mysore, has been or is being committed in respect of the child,

the magistrate may issue a summons in the first instance against the person or persons in whose care, custody or control such child is, to produce forthwith the said child in Court, or may issue a warrant authorizing any police officer named therein to search for such child, and, if it is found that he has been or is being wilfully ill-treated or neglected in manner aforesaid or that any offence as aforesaid has been or is being committed in respect of the child, to take him to and detain him in a place of safety until he can be brought before the magistrate, or authorizing any police officer to remove the child with or without search, to a place of safety and detain him there until he can be brought before the magistrate; and the magistrate before whom the child is brought may commit him to the care of a relative or other fit person in like manner as if the person in whose charge or control he was had been committed for trial for an offence punishable under this Act:

Provided that, if the said child is in the custody or control of a parent or guardian who, being a female, does not, according to the customs and manners of the country, appear in public, the magistrate shall ordinarily issue a summons, and the person to whom such summons is issued shall be deemed to have complied with the summons if instead of personally attending in court she causes the said child to be produced in court.

(2) A magistrate issuing a warrant under this section may, in his discretion by the same warrant, direct that any person accused of any offence in respect of the child

be apprehended and brought before him or, direct that, if such person executes a bond with sufficient sureties for his attendance before the magistrate at a specified time and thereafter until otherwise directed by the magistrate, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(3) The police officer executing the warrant shall be accompanied by the person laying the information if such person so desires, and may also, if the magistrate by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

(4) In any information or warrant under this section, the name of the child shall be given if known.

Compensation for false and frivolous or vexatious information.

20. (1) If, in any case in which an information has been laid by any person under the provisions of section 19, the magistrate, after such inquiry as he may deem necessary, is of opinion that such information was false and either frivolous or vexatious, the magistrate may, for reasons to be recorded in writing, direct that compensation to such an amount not exceeding one hundred rupees as he may determine be paid by such informer to the person against whom the information was laid.

(2) Before making any order for the payment of compensation, the magistrate shall call upon the informer to show cause why he should not pay compensation and shall consider any cause which such informer may show.

(3) The magistrate may by the order directing payment of the compensation further order that in default of payment the person ordered to pay such compensation shall suffer simple imprisonment for a period of thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Indian Penal Code, as in force in Mysore, shall, so far as may be, apply.

(5) No person who has been directed to pay compensation under this section shall by reason of such order be exempted from any civil or criminal liability in respect of the information given by him, but any amount paid as compensation shall be taken into account in any subsequent civil suits relating to such matter.

(6) An informer who has been ordered to pay compensation exceeding fifty rupees may appeal from the order as if such informer had been convicted on a trial held by the magistrate directing the payment of compensation.

(7) When an order for the payment of compensation is made in a case which is subject to appeal under sub-section (6), the compensation shall not be paid to the person ordered to receive it before the period allowed for the presentation of the appeal has elapsed or, if an appeal is presented, before the appeal has been decided ; and where such order is made in a case which is not subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order.

PART IV.

Juvenile Offenders.

Bail of children arrested.

21. Where the person apparently under the age of sixteen years is arrested on a charge of a non-bailable offence and cannot be brought forthwith before a court, the officer in charge of the police station to which such person is brought may in any case, and shall unless the charge is one of culpable homicide or any other offence punishable with death or transportation, release him on bail if sufficient security is forthcoming unless for reasons to be recorded in writing the officer believes that such release would bring him into association with any reputed criminal :

Provided that, when any girl apparently under the age of sixteen years is arrested, the officer in charge of a police station who has made the arrest or before whom the girl is produced shall release her at once if any person who in his opinion is a sufficient surety enters into a bond for such sum of money as the officer considers sufficient to produce her before the court and to appear in her stead if required at the police station.

Custody of children not discharged on bail after arrest.

22. Where a person apparently under the age of sixteen years having been arrested is not released under section 21 or otherwise, the officer in charge of the police station

shall cause him to be detained in the prescribed manner until he can be brought beore a court.

Remand or committal to custody.

23. A court, on remanding or committing for trial a child who is not released on bail, shall order him to be detained in the prescribed manner.

Attendance at court of parent of child charged with an offence, etc.

24. (1) Where a child is charged with any offence or is brought before a court on an application for an order to send him to a certified school, his parent or guardian may in any case, and shall, if he can be found and resides within a reasonable distance, be required to attend at the court before which the case is heard during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.

(2) Where the child is arrested, the officer in charge of the police station to which he is brought shall cause the parent or guardian of the child, if he can be found, to be warned to attend at the court before which the child will appear.

(3) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual charge of or control over the child :

Provided that if such parent or guardian is not the father, the attendance of the father may also be required.

(4) The attendance of the parent of a child shall not be required under this section in any case where the child was before the institution of the proceedings removed from the custody or charge of his parent by an order of a court.

(5) Nothing in this section shall be deemed to require the attendance of the mother or the female guardian of a child if such mother or female guardian does not according to the customs and manners of the country appear in public, but any such mother or female guardian may appear before the court by a pleader or agent.

Sentences that shall not be passed on child.

25. Notwithstanding anything to the contrary contained in any law, no child shall be sentenced to death or transportation or committed to prison :

Provided that a child who is fourteen years of age or upwards may be committed to prison where the court certifies that he is of so unruly or of so depraved a character that he is not a fit person to be sent to a certified school and that none of other methods in which the case may legally be dealt with is suitable.

No proceedings under Chapter VIII of Criminal Procedure Code against a child.

26. Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1904, no proceedings shall be instituted and no order shall be passed against a child under Chapter VIII of the said Code.

Commitment of child to a certified school.

27. (1) Where a child is found to have committed an offence punishable with transportation or imprisonment, the court, if satisfied on enquiry that it is expedient so to deal with the child, may order him to be sent to a certified school.

(2) Where prior to the commencement of this Act a juvenile offender has been sentenced to transportation or imprisonment, the Government may direct that in lieu of undergoing or completing such sentence he shall, if under the age of fourteen years, be sent to a certified school; and thereupon the offender shall be subject to all the provisions of this Act as if he had been originally sentenced to detention in such school.

Power to discharge juvenile offender or to commit him to suitable custody.

28. (1) A court may, if it shall think fit, instead of directing any juvenile offender to be detained in a certified school, order him to be—

(*a*) discharged after due admonition, or

(*b*) released on probation of good conduct and committed to the care of his parent or guardian or other adult relative or other fit person, on such parent, guardian, relative or person executing a bond, with or without sureties, as the court may require, to be responsible for the good behaviour of the juvenile offender for any period not exceeding three years and for the observance of such other conditions as the court may impose for securing that the juvenile offender may lead an honest and industrious life. The court may order that the juvenile offender released under this

clause be placed under the supervision of a probation officer.

(2) If it appears to the court, on receiving a report from the probation officer or otherwise, that the offender has not been of good behaviour during the period of his probation, it may after making such enquiry as it deems fit, order the offender to be detained in a certified school.

Appointment of probation officers.

29. (1) A probation officer shall be—

(*a*) any person appointed to be a probation officer by the Government, or

(*b*) any person appointed for this purpose by a society recognised in this behalf by the Government, or

(*c*) when there is no person appointed under clause (*a*) or (*b*), any other person appointed from time to time by the court for any particular case subject to general or special orders of the Government.

(2) A probation officer, in the exercise of his duties under any supervision order, shall be subject to the control of the District Magistrate of the district in which the court, which passes any order under this Act in respect of the child is situate.

Duties of probation officers.

30. A probation officer shall, subject to the rules made under this Act and to the directions of the court—

(*a*) visit or receive visits from the child or the juvenile offender at such reasonable intervals as may be specified in the order passed by the court or subject thereto, as the probation officer may think fit;

(*b*) see that the relative of the child or the juvenile offender, as the case may be, or other person to whose care such child or juvenile offender is committed, observes the conditions of the bond;

(*c*) report to the court as to the behaviour of the child or the juvenile offender, as the case may be;

(*d*) advise, assist and befriend the child or the juvenile offender and when and where necessary, endeavour to find him suitable employment; and

(*e*) perform any other duty which may be prescribed.

Power to order parent to pay fine, etc., instead of child.

31. (1) Where a child is found to have committed an offence punishable with fine and the court is of opinion that the case would be best met by the imposition of a fine, whether with or without any other punishment, the court may in any case, and shall if the child is under fourteen years of age, order that the fine be paid by the parent or guardian of the child, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child.

(2) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so; but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(3) Where a parent or guardian is directed to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1904.

(4) A parent or guardian may appeal against any such order as if it had been an order passed in proceedings against himself.

Detention in the case of certain crimes committed by children.

32. (1) When a child is found to have committed an offence of so serious a nature that the court is of opinion that no punishment which, under the provisions of this Act, it is authorised to inflict is sufficient, the court shall order the offender to be kept in safe custody in such place or manner as it thinks fit and shall report the case for the orders of the Government.

(2) Notwithstanding the provisions of section 25, the Government may order any such child to be detained in such place and on such conditions as it thinks fit and while so detained the child shall be deemed to be in legal custody:

Provided that no period of detention so ordered shall exceed the maximum period of imprisonment to which the child could have been sentenced for the offence committed.

Methods of dealing with children charged with offences.

33. (1) Where a child charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Act enabling the court to deal with the case, the case should be dealt with, namely, whether—

(*a*) by discharging the offender after due admonition; or

(*b*) by committing the offender to the care of his parent, guardian, other adult relative, or other fit person, on such parent, guardian, relative or person executing a bond to be responsible for his good behaviour; or

(*c*) by so discharging the offender and placing him under the supervision of a person named by the court; or

(*d*) by releasing the offender on probation of good conduct; or

(*e*) by sending the offender to a certified school; or

(*f*) by sentencing the offender to caning, administered by way of cuts not exceeding six on each hand in cases where the conduct of the offender has been such as to lead the court to believe that no other punishment would be effective; or

(*g*) by ordering the offender to pay a fine; or

(*h*) by ordering the parent or guardian of the offender to pay a fine; or

(*i*) where the offender is a child of fourteen years of age or upwards, by sentencing him to imprisonment; or

(*j*) by dealing with the case in any other manner in which it may legally be dealt with:

Provided that nothing in this section shall be construed as authorizing the court to deal with any case in any manner in which it could not deal with the case apart from this section.

(2) Where a child is charged with an offence punishable with fine only, and is dealt with under clause (*g*) of subsection (1), the court may in default of payment of fine order the offender to be sent to a certified school for a period not exceeding three years.

(*Part V—Prohibition of Publication of Names—Part VI—Maintenance and treatment of persons sent to certified schools*)

Investigation of character and circumstances.

34. For the purpose of determining the sentence or order which a court ought to pass or make under this part against any person tried by or brought before it, the court shall, after recording its finding on the facts of the case, have regard to the character of the person and the circumstances in which he is living as disclosed by the facts of the case or, on further inquiry, by any other evidence or information.

PART V.

PROHIBITION OF PUBLICATION OF NAMES, ADDRESSES OR OTHER DETAILS CONCERNING CHILDREN INVOLVED IN OFFENCES.

Penalty for publishing names and addresses of children involved in offences.

35. (1) No report in any newspaper or news sheet of any offence by or against a child or of any proceedings in any court relating to such offence shall disclose the name, address or school, or include any particulars calculated to lead to the identification of any such child, nor shall any picture be published as being or including a picture of any such child.

(2) Any person who publishes any report or picture in contravention of the provisions of this section shall be punishable with imprisonment of either description for a term not exceeding two months or with fine or with both.

PART VI.

MAINTENANCE AND TREATMENT OF PERSONS SENT TO CERTIFIED SCHOOLS OR COMMITTED TO THE CARE OF RELATIVES OR OTHER FIT PERSONS.

Contribution of parent.

36. (1) The court, which makes an order for the detention of a child or juvenile offender in a certified school or for the committal of a child or juvenile offender, to the care of a relative or other fit person may make an order on the parent or other person liable to maintain the child, or juvenile offender to contribute to his maintenance, if able to do so, in the prescribed manner.

(*Part VI—Maintenance and treatment of persons sent to certified schools*)

(2) The court before making any order under sub-section (1) shall inquire into the circumstances of the parent or other person liable to maintain the child or juvenile offender and shall record the evidence, if any, in the presence of the parent or such other person as the case may be or, when his personal attendance is dispensed with, in the presence of his pleader.

(3) Any order made under this section may from time to time be varied by the court.

(4) The persons liable to maintain a child or juvenile offender shall for the purpose of sub-section (1) include in the case of illegitimacy his putative father:

Provided that where the child, or juvenile offender is illegitimate and an order for his maintenance has been made under section 488 of the Code of Criminal Procedure, 1904, the court shall not ordinarily make an order for contribution against the putative father, but may order the whole or any part of the payments accruing due under the said order for maintenance to such person or persons as may be named, to be applied by him or them, as the case may be, towards the maintenance of the child or juvenile offender.

(5) Any order under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1904.

Boarding out of children.

37. The managers of a certified school to which a child under the age of eight years is sent may, with the consent of the Chief Inspector, board the child out with any suitable person until the child reaches the age of ten years and thereafter for such longer period, with the consent of the Chief Inspector, as the managers consider to be advisable in the interest of the child, subject to the exercise by the managers of such powers as to supervision, recall, and otherwise as may be prescribed; and where a child is so boarded out he shall nevertheless be deemed for the purposes of this Act to be a child detained in the school, and the provisions of this Act shall apply accordingly, subject to such necessary adaptations as may be made by the Government.

(*Part VI—Maintenance and treatment of persons sent to certified schools*)

Placing out on licence.

38. (1) Where a child or juvenile offender is detained in a certified school, the managers of the school may at any time, with the consent of the Chief Inspector, by licence permit the child or juvenile offender on the conditions prescribed in this behalf to live with any trustworthy and respectable person named in the licence willing to receive and take charge of him with a view to educate him or train for some useful trade or calling.

(2) Subject to the prescribed conditions, the Chief Inspector may, on the recommendation of the visitors or managers of a certified school, at any time after the expiration of six months from the commencement of the detention of a juvenile offender in a certified school, and if satisfied that there is a reasonable probability that the juvenile offender will abstain from crime and lead a useful and industrious life, release such offender from the school and grant him a written licence in the prescribed form and on the prescribed conditions, permitting him to live under the supervision and authority of such responsible person or society approved by the Chief Inspector as may be willing to take charge of the offender.

(3) Any licence granted under sub-section (1) or (2) shall be in force until revoked or forfeited by the breach of any of the conditions on which it was granted.

(4) The managers of the school or the Chief Inspector, as the case may be, may at any time by order in writing revoke any such licence, and order the child or juvenile offender to return to the school and shall do so at the desire of the person or society with whom or under whose supervision the child or juvenile offender is licensed to live. If the child or juvenile offender refuses or fails to return to the school, the managers of the school or the Chief Inspector, as the case may be, may, if necessary, arrest or cause to be arrested, the child or juvenile offender and take him or cause him to be taken to the school.

(5) When a licence has been revoked or forfeited and the child or juvenile offender refuses or fails to return to the school, the court may, if satisfied by information on oath or solemn affirmation that there is reasonable ground for believing that his parent or guardian could produce the child or juvenile offender, issue a summons requiring the parent or guardian to attend at the court on such a day as

may be specified in the summons and to produce the child or juvenile offender, and, if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act, be punished with a fine which may extend to fifty rupees.

(6) Where a parent or guardian is directed to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1904.

(7) The time during which a child or juvenile offender is absent from a certified school in pursuance of a licence under this section shall be deemed to be part of the time of his detention in the school: provided that, where a child or juvenile offender has failed to return to the school on the licence being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the school.

Penalty for abetting escape of juvenile offender or child.

39. Whoever—

(*a*) knowingly assists or induces, directly or indirectly, a child or juvenile offender detained in or placed out on licence from a certified school or escape from the school or from any person with whom he is placed out on licence, or any child to escape from the person to whose care he is committed under the provisions of this Act;

(*b*) knowingly harbours, conceals, or prevents from returning to school or to any person with whom he is placed out on licence or to whose care he is committed under this Act, a child, or juvenile offender, who has so escaped, or knowingly assists in so doing—

shall be punishable with imprisonment of either description for a term which may extend to two months or with fine which may extend to two hundred rupees, or with both.

Period of detention.

40. The period for which a child or juvenile offender is to be detained in a certified school shall be specified in the order in pursuance of which he is sent there, and shall be such period not being less than two years in the

case of a juvenile offender who at the date of the order is over the age of fifteen years and three years in the case of other juvenile offenders as to the court may seem proper of his teaching and training, but not in any case extending beyond the time when he will, in the opinion of the court, attain the age of eighteen years.

Discharge and transfer.

41. (1) The Government may at any time order a child or juvenile offender to be discharged from a certified school, either absolutely or on such conditions as the Government approves.

(2) The Government may order a juvenile offender over the age of sixteen years detained in a certified school to be transferred to a Borstal School established under the Mysore Borstal Schools Act, in the interest of discipline or for other special reasons:

Provided that the whole period of the detention of the child or juvenile offender shall not be increased by the transfer.

(3) Upon the transfer of a juvenile offender to a Borstal School under sub-section (2), the provisions of the Mysore Borstal Schools Act shall apply to such offender as if he had been originally ordered to be detained in a Borstal School under that Act.

The Government may at any time in its discretion discharge a child from the care of any person to whose care he is committed under this Act, either absolutely or on such conditions as the Government approves, and may, if it thinks fit, make rules in relation to children so committed to the care of any person and to the duties of such person with respect to such children.

Transfer from one certified school to another.

42. The Chief Inspector may direct any child or juvenile offender to be transferred from one certified school to another:

Provided that the total period of detention of the child or juvenile offender shall not be increased by such transfer.

PART VII.

CERTIFIED SCHOOLS AND OTHER INSTITUTIONS.

Establishment and certification of schools.

43. (1) The Government may establish and maintain any school or other educational institution which in the opinion of the Government under sub-section (1) is fit for the reception of children or juvenile offenders.

(2) The Government may certify that any school or other educational institution not established under sub-section (1) is fit for the reception of children or juvenile offenders.

Management of schools.

44. (1) For the control and management of every school established under sub-section (1) of section 43, a superintendent and a committee of visitors shall be appointed by the Government, and such superintendent and committee shall be deemed to be the managers of the school for the purposes of this Act.

(2) Every school certified under sub-section (2) of section 43 shall be under the management of a governing body who shall be deemed to be the managers of the school for the purposes of this Act.

Inspection of schools.

45. (1) The Government may appoint a chief inspector of certified schools and such number of inspectors and assistant inspectors as it thinks advisable to assist the chief inspector and every person so appointed to assist the chief inspector shall have such of the powers and duties of the chief inspector as the Government directs but shall act under the direction of the chief inspector.

(2) Every certified school shall, at least once in every six months, be inspected by the chief inspector of certified schools, or by an inspector or assistant inspector : provided that where any such school is for the reception of girls only and such inspection is not made by the chief inspector, the inspection shall, where practicable, be conducted by a woman.

Power of Inspectors.

46. A certified school shall be liable to inspection at all times and in all its departments by the Chief Inspector or inspector or assistant inspector.

Medical inspection.

47. Any registered medical practitioner empowered in this behalf by the Government may visit any certified school at any time with or without notice to its managers in order to report to the Chief Inspector on the health of the inmates and the sanitary condition of the school.

Power of Government to withdraw certificate.

48. The Government, if dissatisfied with the condition, rules, management, or superintendence of a certified school, may at any time by notice served to the managers of the school, declare that the certificate of the school is withdrawn as from a time specified in the notice, and at that time the withdrawal of the certificate shall take effect and the school shall cease to be a certified school:

Provided that the Government may, if it thinks fit, instead of so withdrawing the certificate, by notice served on the managers of the school, prohibit the admission of children or juvenile offenders to the school for such time as may be specified in the notice or until the notice is revoked:

Provided also that, before the issue of notice under this section or under the first proviso thereto, a reasonable opportunity shall be given to the managers of the school to show cause why the certificate shall not be withdrawn or admission to the school shall not be prohibited, as the case may be.

Registration of certificate by managers.

49. The managers of a certified school may, on giving six months' notice in writing to the Government through the Chief Inspector of their intention so to do, resign the certificates of the school, and accordingly at the expiration of six months from the date of the notice, unless before that time the notice is withdrawn, the resignation of the certificate shall take effect, and the school shall cease to be a certified school.

Effect of withdrawal or registration of certificate.

50. A child or juvenile offender shall not be received into a certified school in pursuance of this Act after the date of the receipt by the managers of the school of a notice of withdrawal of the certificate or after the date of a notice of resignation of the certificate; but the obligation hereinafter mentioned of the managers to teach,

train, lodge, clothe and feed any children or juvenile offenders detained in the school at the respective dates aforesaid shall, except so far as the Government otherwise directs, continue until the withdrawal or resignation of the certificate takes effect.

Disposal of inmates on withdrawal of registration certificate.

51. When a school ceases to be a certified school, the children or juvenile offenders detained therein shall be either discharged absolutely or on such conditions as Government may impose or transferred by order of the Government to some other certified school in accordance with the provisions of this Act relating to discharge and transfer.

Auxiliary homes.

52. The Government may establish auxiliary homes for reception of any inmates or any classes of inmates of certified schools or may certify any other such home heretofore established or which hereafter may be established by any other agency, and the certificates may be withdrawn or resigned in like manner as a certificate of a school, and every such home shall, for such purposes as are specified by the Government, be treated as part of the certified school or school to which it is attached.

Liabilities of managers.

53. The managers of a certified school not established by the Government may decline to receive any child or juvenile offender, proposed to be sent to them in pursuance of this Act, but when they have once accepted any such child or juvenile offender, they shall be deemed to have undertaken to teach, train, lodge, clothe and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate of the school.

Inspection of institutions for reception of poor children.

54. (1) The Government may cause any institution for the reception of poor children supported wholly or partly by voluntary contributions, and not liable to be inspected by or under the authority of any department of the Government, to be visited and inspected from time to time at all reasonable hours, by persons appointed by it for the purpose of securing the health and welfare of the children and the sanitation of the premises.

(2) Any person so appointed shall have power to enter the institution at all reasonable hours and to make a complete inspection thereof and of all registers, relating thereto for the aforesaid purposes. Any person who obstructs him in the execution of his duties shall be liable on conviction to a fine not exceeding fifty rupees.

(3) Where any such institution is carried on in accordance with the principles of any particular religious denomination the Government shall, if so desired by the managers of the institutions, appoint, where practicable, a person of that denomination to visit and inspect the institutions.

(4) Where any such institution is for the reception of girls only, the inspection shall, where practicable, be conducted by a woman.

PART VIII.

JUVENILE COURTS.

Juvenile Courts.

55. (1) The Government may provide for the establishment in any area of one or more separate courts for the conduct of proceedings under this Act at which the attendance of the child is required :

Provided that, where a child is accused of an offence triable jointly with any other person not being a child, nothing in this sub-section shall affect or be deemed to affect the powers of the court to try such other person under any other law for the time being in force.

(2) Where no such separate court has been established, the court before which a child is brought shall, unless the child is tried jointly with any other person not being a child, whenever practicable sit either in a different building or room from that in which the ordinary sittings of the court are held or on different days or at different times from those at which the ordinary sittings are held.

PART IX.

MISCELLANEOUS.

Provision as to religion.

56. (1) In determining the certified school which a child or juvenile offender is to be sent under this Act, the

court shall ascertain the religious denomination of the child or juvenile offender and shall, if possible, select a school in which facilities are afforded for instruction in his religion.

(2) In determining the person to whose care a child shall be committed under this Act, the Court shall ascertain the religious denomination of the child, and shall, if possible, select a person of the same religious denomination or a person who gives such undertaking as seems to the court sufficient that the child will be brought up in accordance with the religion of the child and such religion shall be specified in the order.

(3) In any case where a child has been committed pursuant to any such order to the care of a person who is not of the religious denomination of the child or who has not given such undertaking as aforesaid, the court which made the order or any court of like jurisdiction shall, on the application of any person in that behalf and on its appearing that a fit person of the religious denomination of the child or who will give such undertaking as aforesaid is willing to undertake the care of the child, make an order committing him to the care of such fit person.

(4) When a child is committed to the care of a certified school in which facilities for instruction in his religion are not afforded or to a person who does not give an undertaking that the child entrusted to him will be brought up in his religion (for want of a certified school or person of the religion of the child), the court shall take an undertaking from such school or such person that the child shall not be brought up in any religion other than his own.

(5) Where a child is boarded out or where a child or juvenile offender is permitted by license to live with any other person, the manager of the school shall select for this purpose a person of the same religion as the child, or juvenile offender, as the case may be, if such person is available, and if no such person is available then a person who gives a satisfactory undertaking that the child or juvenile offender shall be brought up in accordance with the religion of such child, or juvenile offender, and if no such person is available then another person within the provisions of section 37 or 38, as the case may be.

(6) When a child has been committed to the care of a person who gives an undertaking as aforesaid but the undertaking is not observed, the child shall be liable to be removed from the care of such person and dealt with according to the provisions of sub-section (3) of this section.

(7) Whenever any person interested in the religion of the child is informed of any attempt at conversion or tampering with his religion, he may apply to the court for an enquiry, and the court on being satisfied may issue an order removing the said child from the custody of such institution or person and hand over the custody to another fit person or institution.

Committal to an approved place of a child suffering from venereal or tubercular disease.

57. When a child who has been brought before a magistrate under any of the provisions of this Act, is found to be suffering from a venereal or tubercular disease, the magistrate, if satisfied that medical treatment is necessary and the child will not otherwise get such treatment, may commit the child to an approved place for such period as he may think necessary, and may from time to time extend the said period.

Removal of disqualification attaching to convictions for offences.

58. When a child is found to have committed any offence, the fact that he has been so found shall not have any effect under section 75 of the Indian Penal Code, or section 565 of the Code of Criminal Procedure, 1904, or operate as a disqualification for office or election under any law.

Control of custodian over child.

59. Any person to whose care a child is committed under the provisions of this Act shall, while the order is in force, have the like control over the child as if he were his parent, and shall be responsible for his maintenance, and the child shall continue in his care notwithstanding that he is claimed by his parent or any other person.

Bonds taken under the Act.

60. The provisions of Chapter XLII of the Code of Criminal Procedure, 1904, shall, so far as may be, apply to bonds taken under this Act.

(Part IX—Miscellaneous)

Appeals.

61. (1) An appeal from an order made by a court under sections 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 18, 22, 36, 38, or 56 shall lie—

(*a*) if passed by a juvenile court, to a District Magistrate;

(*b*) if passed by any Magistrate, to the Court of Session; and

(*c*) if passed by a Court of Session, to the High Court.

(2) No appeal shall lie from any order passed in any such appeal.

(3) Any order passed under the provisions of this Act and not subject to appeal under sub-section (1) may be revised by the High Court.

Powers to amend orders.

62. Without prejudice to the powers of courts of appeal and revision, any custody order, supervision order or probation order may be amended by the court which made the order, in respect of the person named as custodian, supervisor or probation officer, the period of duration, and such matters of detail as may be prescribed.

Rules.

63. (1) The Government may take rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing, such rules may be made with regard to—

(*a*) the establishment and maintenance of certified schools and auxiliary homes, and the certification of schools as certified schools and of auxiliary homes;

(*b*) the management of certified schools and auxiliary homes;

(*c*) the appointment of visitors and their tenure of office;

(*d*) the inspection of certified schools;

(*e*) the maintenance, education and industrial training of the inmates of certified schools;

(*f*) the conveyance of juvenile offenders and children to certified schools;

(*g*) the grant of permission to the inmates of certified schools to absent themselves for short periods;

(*h*) visits to and communication with the inmates of certified schools;

(*i*) the punishment of offences committed by the inmates of certified schools;

(*j*) the inspection of the institutions referred to in Section 54;

(*k*) the manner of detention of children under arrest or remanded or committed for trial;

(*l*) the procedure to be adopted in any case or inquiry under this Act before any court other than a juvenile court;

(*m*) the persons who may be authorised to act under section 5 or 17;

(*n*) the manner in which a child may be committed to the care of relative or other fit person, and the duties of such persons and the supervision of such children;

(*o*) the conditions subject to which a juvenile offender may be released on licence under sub-section (2) of section 38 and the form and conditions of such licence;

(*p*) the manner in which the juvenile offender may be released on probation;

(*q*) matters incidental to the appointment, resignation and removal of probation officers and the remuneration and expenses payable to them;

(*r*) the duties of probation officers;

(*s*) the conditions on which societies may be recognized by the Government for providing probation officers;

(*t*) the contribution by parents and other persons liable to maintain juvenile offenders and children;

(*u*) the boarding out of children and the licensing and supervision of children and juvenile offenders and the submission reports regarding them;

(*v*) the procedure to be adopted in juvenile courts; and

(*w*) the time within which appeals under section 61 shall be filed.

(3) All rules made under this section shall be published in the official Gazette, and on such publication they shall have the same effect as if enacted in this Act.